

California Regional Water Quality Control Board
Santa Ana Region

September 26, 2003

ITEM: 3

SUBJECT: Public Hearing (continued from August 22, 2003), Orange County
Municipal Storm Water Permittees' Model Water Quality Management
Plan (WQMP)

BACKGROUND:

On January 18, 2002, the Santa Ana Regional Water Quality Control Board (Board) adopted Order No. R8-2002-0010, NPDES No. CAS618030, Areawide Urban Storm Water Runoff Permit for Orange County and the Incorporated Cities (OC MS4 Permit). The OC MS4 Permit regulates the discharge of storm water from municipal separate storm sewer systems (MS4) to waters of the U.S. This Board and other Southern California Regional Boards have adopted a number of similar MS4 permits. One of the most discussed issues during the re-adoption process was the requirement for control of pollutants from new/re-development projects. The MS4 permittees are required to develop and implement structural Best Management Practices (BMPs), sized according to the sizing criteria specified in the Permit, or other equivalent control measures to reduce/eliminate the discharge of pollutants from new developments and significant re-developments.

The 1990 OC MS4 Permit and DAMP, a plan developed by the Orange County permittees that describes their storm water program, contained some of the first requirements for the implementation of structural and non-structural BMPs with new development. Owners of new development were required to develop WQMPs that described how storm water and urban runoff would be controlled at the new development through the use of BMPs selected from an existing menu. These BMPs included nonstructural controls like pollutant education brochures for new owners, common area litter control, and street sweeping; and structural controls like apartment complex car wash racks connected to the sanitary sewer, common area runoff-minimizing landscape design, and covers & enclosures for trash bins.

The 1996 MS4 Permit for Los Angeles County, adopted by the Los Angeles Regional Board, required the County to submit Standard Urban Storm Water Mitigation Plans (SUSMPs). The SUSMPs are plans that designate BMPs that must be used in specified categories of development projects. The County submitted SUSMPs, but the Board approved the SUSMPs only after making revisions. The Executive Officer issued the revised SUSMPs on March 8, 2000 and upon appeal, the action was upheld in a precedential decision by the State Board in Order WQ-2000-11, on October 5, 2000.

With that precedential decision, the State Board required that the SUSMPs, or its equivalent, be included in all future Phase I MS4 permits. When the Orange County MS4 permittees initiated the renewal of the OC MS4 Permit in September 2000, they stated their desire to adapt their existing WQMP program to meet the requirements of the SUSMP program, rather than abandon the existing program. Additionally, the permittees wanted to be able to make use of 'regional' or 'watershed' based treatment BMPs, some in the form of constructed wetlands for treatment of storm water and urban runoff, to reduce the need for site-by-site or tract-by-tract treatment BMPs.

Over the past one and a half years, the staffs of Irvine Ranch Water District, The Irvine Company and the County of Orange have been discussing with various regulatory entities the possibility of incorporating constructed, treatment wetlands that they refer to as "Natural Treatment Systems" or "NTS", at various points of the Orange County Flood Control District system, throughout central and south Orange County. Board staff has reviewed and prepared comments on a draft EIR for the NTS system.

On March 1, 2003, in compliance with Section XII.B.1 of the OC MS4 Permit, the permittees submitted a copy of the updated WQMP and an updated version of Chapter 7 of the DAMP that addresses New Development and Significant Redevelopment. Furthermore, electronic copies of these documents were posted on the County's storm water web site for public review [Attachment B]. Staff had reviewed the submitted documents and on May 21, 2003 sent a comment letter to the County, as the Principal Permittee, providing a list of discrepancies, deficiencies, and items requiring further clarification in the submitted WQMP and Chapter 7 of the DAMP.

At the July 1, 2003 Board meeting the Model WQMP, the associated documents and a summary of staff's comments were presented as an information item. On July 23, 2003, Orange County staff submitted revised versions of the aforementioned documents along with a letter of response to staff's comments. These documents were posted on the Board website; information on these documents and this hearing were publicly noticed; and, on July 23, 2003, a notice of that posting was sent to the over 200 interested parties who have signed up to be notified by email, of developments in the OC MS4 Permit.

The OC MS4 Permit states that by October 1, 2003, the submitted WQMP must be approved by the Executive Officer as providing an equivalent or superior degree of treatment as structural treatment BMPs at each new development and significant redevelopment or those sized, structural treatment BMPs will be required. The process that must be followed for the approval of submittals under the OC MS4 Permit is identified in Section XIX.1 (Provisions). "All reports submitted by the permittees as per the requirements in this Order for the approval of the Executive Officer shall be publicly noticed and made available on the Regional Board's website, or through other means, for public review and comments. The Executive Officer shall consider all comments received prior to approval of the reports. Any unresolved significant issues shall be scheduled for a public hearing at a Regional Board meeting prior to approval by the Executive Officer."

PUBLIC HEARING:

On August 22, 2003, the Board conducted a Public Hearing on this item. Staff's presentation was followed by testimony given by representatives for: the County and some of the Cities under this MS4 Permit; environmental groups; and other interested parties. Some of the interested parties requested additional time to comment on the WQMP. Based on the comments received, the Board agreed to continue the hearing to a special Board meeting on September 26, 2003 and directed staff to meet with permittee representatives and other interested parties and to discuss and try to reach consensus on outstanding issues.

UPDATE:

Since the August 22, 2003 Public Hearing on this item, staff met with representatives of the permittees and other interested parties on August 27, 2003, and September 4, 2003. Additional meetings are scheduled for September 15 and 18, 2003. Consensus has been reached on a number of outstanding issues and it is hoped that prior to the September 26, 2003 Public Hearing, the parties can reach consensus on all major outstanding issues.

Staff is proposing to prepare an errata sheet with the proposed changes to the WQMP and present it to the Board at the September 26, 2003 meeting.

RECOMMENDATION:

Staff will request the Board to authorize the Executive Officer to approve the WQMP with the changes proposed in the errata sheet. This errata sheet will be posted on the Board's website as soon as it is finalized and will be available for public review at:

http://www.swrcb.ca.gov/rwqcb8/html/oc_permittee_submittals.html